UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: November 28, 2005

Opposition No. 91164280

REGAL WARE, INC

v.

ADVANCED MARKETING INT'L., INC.

Cindy B. Greenbaum, Attorney:

This case now comes up on applicant's motions (filed August 25, 2005) to compel discovery and to extend discovery and trial dates. The parties have fully briefed the motions.

The Board turns first to applicant's motion to compel.

Trademark Rule 2.120(e) provides in pertinent part:

> [A motion to compel] must be supported by a written statement from the moving party that such party or the attorney therefor has made a good-faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion and has been unable to reach agreement.

The record establishes that applicant did not inform opposer of purported deficiencies in opposer's discovery responses until August 12, 2005, approximately four months after opposer served the responses, and that applicant demanded supplemental responses by August 19, 2005. Although the Board notes that applicant called opposer twice

during the week between August 12 and August 19, 2005 to follow up on the August 12, 2005 letter, applicant did not forward a proposed protective agreement until August 15, 2005.

Applicant's failure to inform opposer more promptly of opposer's purported discovery deficiencies, coupled with applicant's insistence on an unreasonable time frame for opposer's response to applicant's August 12, 2005 letter and applicant's August 15, 2005 proposed stipulated protective agreement simply do not constitute a sufficient good faith effort under Trademark Rule 2.120(e). Accordingly, applicant's motion to compel is denied.

Notwithstanding the foregoing, inasmuch as it appears that opposer will remedy many of the purportedly deficient responses upon entry of a protective agreement, and because the record contains no evidence that the parties have already entered into such an agreement, the Board deems it appropriate to impose the Board's standardized protective order on the parties, effective as of the mailing date of this order. Thus, to the extent that opposer's complete response to discovery involves disclosure of confidential matter, opposer is directed to fully respond to such requests under this protective order.[1]

[1] If the parties previously entered into a stipulated protective agreement or agree to modify the Board-ordered protective order, the parties have until THIRTY DAYS from the mailing date of this

The parties are reminded that the purpose of discovery is to advance the case so that it may proceed in an orderly manner within reasonable time constraints. To this end, the parties must adhere to the strictures set forth in *Sentrol, Inc. v. Sentex Systems, Inc.*, 231 USPQ 666, 667 (TTAB 1986), and repeated below:

> [E]ach party and its attorney has a duty not only to make a good faith effort to satisfy the discovery needs of its opponent but also to make a good faith effort to seek only such discovery as is proper and relevant to the specific issues involved in the case. Moreover, where the parties disagree as to the propriety of certain requests for discovery, they are under an obligation to get together and attempt in good faith to resolve their differences and to present to the Board for resolution only those remaining requests for discovery, if any, upon which they have been unable, despite their best efforts, to reach an agreement. Inasmuch as the Board has neither the time nor the personnel to handle motions to compel involving substantial numbers of requests for discovery which require tedious examination, it is generally the policy of the Board to intervene in disputes concerning discovery, by determining motions to compel, only where it is clear that the parties have in fact followed the aforesaid process and have narrowed the amount of disputed requests for discovery, if any, down to a reasonable number.

The parties are directed to work together to resolve their discovery problems, in the spirit of good faith and cooperation that is required of all litigants in Board proceedings. In particular, no motion to compel should be

---

order to file a copy thereof with the Board. The Board's standardized protective order, hereby imposed herein, may be viewed on the internet at: www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm.

filed unless the parties are truly unable, after making their best efforts, to work out mutually acceptable solutions to their discovery problems without the Board's help.

The Board now turns to applicant's motion to extend the close of discovery from September 11, 2005 to November 10, 2005. The Board notes that pursuant to the June 8, 2005 Board order, the close of discovery was extended until November 8, 2005. Thus, it appears that applicant may have overlooked the scheduling order portion of the June 8, 2005 Board order.

In any event, pursuant to ordinary Board practice, proceedings herein were effectively suspended retroactively to the filing date of applicant's motion to compel. At that time, approximately eleven weeks remained in the discovery period. There is no reason to deprive either party of the remaining discovery period. Accordingly, applicant's motion to extend is granted to the extent set forth below:

DISCOVERY PERIOD TO CLOSE:	**February 15, 2006**
Thirty-day testimony period for party in position of plaintiff to close:	**May 16, 2006**
Thirty-day testimony period for party in position of defendant to close:	**July 15, 2006**
Fifteen-day rebuttal testimony period to close:	**August 29, 2006**

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.l25.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.l29.